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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,022	11/24/2003	Masaru Miyamoto	009682-128	9153
21839	7590	07/05/2005	EXAMINER	
BUCHANAN INGERSOLL PC (INCLUDING BURNS, DOANE, SWECKER & MATHIS) POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			NGUYEN, TUAN N	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/719,022

Applicant(s)

MIYAMOTO ET AL.

Examiner

Tuan N. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/19/04 & 6/14/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The abstract of the disclosure is objected to because it should be in a single paragraph format and less than 150 words. Correction is required. See MPEP § 608.01(b).
2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, it is unclear as to what structure is being referred to by "which" in line 1 and "above" in line 2. In claim 5, it is unclear as to what is being claimed in claim 5.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 5-7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Asami et al. (hereinafter Asami).

In regard to claim 1, Asami discloses an ink-storing member (Fig. 1) for a writing instrument which stores an ink (2) for a writing instrument, wherein the above ink-storing member for a writing instrument comprises a multilayer structure comprising an organic high molecular compound layer (6) constituted of an organic high molecular compound and an inorganic compound layer constituted of an inorganic compound (coated to tube 6 by the ink follower 7 having synthetic mica of inorganic particles, see col. 3, lines 39-44).

In regard to claim 2, the ink-storing member for a writing instrument has a parallel light transmittance of 50 % or more since it is transparent (see col. 7, line 12 et seq.).

In regard to claim 5, as best understood, the coating of the inorganic from ink follower 7 on to tube 6 meets the method as claimed.

In regard to claims 6, 7 and 10, ink-storing member for a writing instrument is an ink-storing vessel or an ink-storing tube for a writing instrument.

5. Claims 1, 5, 6 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by JP05-84236B (hereinafter Iwase).

In regard to claim 1, Iwase discloses an ink-storing member (see figure) for a writing instrument which stores an ink for a writing instrument, wherein the above ink-storing member for a writing instrument comprises a multilayer structure comprising an organic high molecular compound layer (3b, 3c, 4, 6, or 7) constituted of an organic high

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molecular compound and an inorganic compound layer (aluminum foil 3a or aluminum vapor-deposit layer 5) constituted of an inorganic compound.

In regard to claim 5, as best understood, the vapor-deposit of aluminum layer 5 meets the method as claimed.

In regard to claims 6 and 10, the ink-storing member for a writing instrument is an ink-storing vessel or an ink-storing tube for a writing instrument.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 4, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asami.

In regard to claims 3 and 8, it would have been obvious to one having ordinary skill in the art to select at least one inorganic compound from the group consisting of well known inorganic compounds as specific as claimed (if not already).

In regard to claims 4 and 9, the ink-storing member for a writing instrument could obviously have oxygen permeability and steam permeability as claimed since discovering the optimum or workable ranges involves only routine skill in the art.

7. Claims 2-4 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwase.

In regard to claims 2 and 7, it would have been obvious to one having ordinary skill in the art to make the ink-storing member for a writing instrument of l wase to be transparent so as to allow a user to view the inside of the barrel (2). The transparency would obviously yield a parallel light transmittance of 50% or more.

In regard to claims 3 and 8, it would have been obvious to one having ordinary skill in the art to select at least one inorganic compound from the group consisting of well known inorganic compounds as specific as claimed (if not already).

In regard to claims 4 and 9, the ink-storing member for a writing instrument could obviously have oxygen permeability and steam permeability as claimed since discovering the optimum or workable ranges involves only routine skill in the art.

### ***Conclusion***


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chen et al., Krause et al., and Robben et al. disclose other multilayer tubular structure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 571-272-4892. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R. Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Tuan Nguyen  
Primary Examiner  
Art Unit 3751  
6/24/05

TN